IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1009 OF 1991

1. Bapu Punaji Jagtap, since
   deceased, by his L.Rs.
   a. Hirabai Bapurao Jagtap,
   b. Babasaheb Bapurao Jagtap,
   c. Abasaheb Bapurao Jagtap,
   d. Alka Subhash Jadhav,
2. Dattu Punaji Jagtap,
3. Dnyanoba Daji Jagtap, since
   deceased, by his L.Rs.
   a. Smt.Shardabai Dnyanoba Jagtap,
   b. Vaksant Dnyanoba Jagtap,
   c. Hanmant Dnyanoba Jagtap,
   d. Malan Vasudeo Kashid,
   e. Shantabai Popat Gavali,
   f. Sushila Shivaji Gavali ... Petitioners

versus

Smt. Padmini Ramchandra Patil ... Respondent

...

Mr. M.V. Sali, for the Petitioners.

Mr. N.R. Babuna, for Mr. B.P. Apte, for the

Respondent.

CORAM : A.M.KHANWILKAR,J.

5th August 2004

ORAL JUDGMENT :

1. This petition takes exception to the judgment and order passed by the Maharashtra Revenue Tribunal dated December 11, 1990 in Revision No. MRT-SH/II/6/90(TNC.B.39/90). Briefly stated, the lands in question are agricultural land bearing Survey No. 367/1 and 367/2 situated at village Avhe, taluka Pandharpur, district Solapur. The Petitioner claims to be tenant in respect of the suit lands. According to the Petitioners, the suit lands are in lawful cultivation of the Petitioners since prior to 1st April 1957, whereas the case of the Respondent landlord is that the Petitioner has been inducted as tenant in the year 1965-66, as is evidenced by the mutation entry recorded for the relevant period. The tenancy authorities accepted the case of the landlord and rejected the stand taken on behalf of the Petitioner tenant. In other words, the tenancy authority

opined that the Petitioner was inducted as tenant after the tillers' day, i.e., in 1965-66. On that finding reached by the tenancy authority, it further went on to observe that admittedly the Petitioner failed to give intimation within the statutory period as was required under section 32O of the Act, for which reason the purchase in favour of the Petitioner has become ineffective. That decision was challenged before the appellate authority, which has, in turn, affirmed the view taken by the tenancy authority. The Petitioner carried the matter in revision before the Tribunal and the revisional authority has also proceeded on the same basis, as has been found by the two authorities below.

2. After hearing Counsel for the respective parties, I have no hesitation in observing that the petition is devoid of merits. From the facts as found concurrently by the authorities below, it is seen that the Petitioner was inducted in the suit lands in 1965-66. If it is so, the tenant will not become deemed purchaser. Whereas the tenant was obliged to give intimation within the statutory period as required under section

32O of the Act. In the present case, the authorities below have concurrently found that the tenant failed to send intimation to the landlord within the statutory period. If the aforesaid finding of fact cannot be taken exception to and will be binding on this Court, it would necessarily follow that the purchase in respect of the suit land in favour of the tenant has become ineffective by operation of law. This is so because in the present case the relationship of parties as landlord and tenant is not in dispute, but the issue was when the tenancy had commenced. Viewed in this perspective, no interference is warranted with the concurrent view taken by the three authorities below. Hence, petition dismissed. Rule discharged. No order as to costs.

3. Parties to act on the authenticated copy of this Judgment.

(A.M.KHANWILKAR,J.)